



**UNITED STATES DEPARTMENT OF COMMERCE
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SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/473,789 06/07/95 CURTISS

R MEGAN-100-21

MURTHY, P EXAMINER

18N1/0514

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ART UNIT PAPER NUMBER

1802

4

DATE MAILED: 05/14/96

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

for restriction purposes only

☒ This application has been examined ☐ Responsive to communication filed on _____ ☐ This action is made final.

A shortened statutory period for response to this action is set to expire _____ month(s), 30 days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input checked="" type="checkbox"/> Notice of Draftsman's Patent Drawing Review, PTO-948. |
| 3. <input type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449. | 4. <input type="checkbox"/> Notice of Informal Patent Application, PTO-152. |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474. | 6. <input type="checkbox"/> _____ |

Part II SUMMARY OF ACTION

1. ☒ Claims 1-35 are pending in the application.

Of the above, claims _____ are withdrawn from consideration.

2. ☐ Claims _____ have been cancelled.

3. ☐ Claims _____ are allowed.

4. ☐ Claims _____ are rejected.

5. ☐ Claims _____ are objected to.

6. ☒ Claims 1-35 are subject to restriction or election requirement.

7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8. ☐ Formal drawings are required in response to this Office action.

9. ☒ The corrected or substitute drawings have been received on 6/7/95. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☒ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).

10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).

11. ☐ The proposed drawing correction, filed _____, has been ☐ approved; ☐ disapproved (see explanation).

12. ☐ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. _____; filed on _____.

13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14. ☐ Other

EXAMINER'S ACTION

Part III DETAILED ACTION

Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

Group I. Claims 1-19 and 27-29, drawn to recombinant bacterial vectors and method of making same, classified in Class 435, subclass 252.3, for example.

Group II. Claims 20-26 and 30-35, drawn to bacterial vectors expressing antigens, vaccines comprising same, and methods of vaccination, classified in Class 424, subclass 200.1, for example.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are distinct, each from the other, because they are drawn to compositions comprising different components (e.g. antigen in II) and having different properties. The compositions of II are claimed as vaccines and therefore inherently have properties (e.g. immunogenicity) that are not required of the compositions of I. Additionally, the methods of I and II are distinct methods with different starting reagents, different method steps, and different end results.

2. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification and their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

3. A telephone call was made to Dan Hodges on 4/30/96 and on 5/7/96 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

4. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Prasad Murthy whose number is (703) 308-7544. The examiner is available Monday through Thursday, between 7:30 AM and 5:30 PM. If the examiner is unavailable, inquiries should be directed to the examiner's Supervisory Patents Examiner, James Housel, who can be reached at (703) 308-4027.

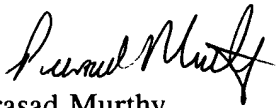
Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.


Papers related to this application may be submitted to Group 180 by facsimile transmission. The faxing of such papers must conform with the notice published in the

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Art Unit: 1802

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Official Gazette, 1096 OG 30 (November 15, 1989). The fax number of Art Unit 1802 is (703) 308-4065.


Prasad Murthy
May 9, 1996


JAMES C. HOUSEL 5/13/96
SUPERVISORY PATENT EXAMINER
GROUP 180